

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

United States District Court
Southern District of Texas
FILED

JAN 30 2006

McALLEN DIVISION

Michael N. Milby, Clerk

UNITED STATES OF AMERICA

vs.

GLOBAL LIMO, INC. and
JAMES H. MAPLES

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§

Criminal No. M-06-76-S

UNDER SEAL

SUPERSEDING INDICTMENT

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THE GRAND JURY CHARGES THAT:

INTRODUCTION

At all times material to this Indictment:

1. The United States Department of Transportation ("USDOT") is a department and agency of the United States.
2. The USDOT, Office of Inspector General, is an agency of USDOT charged with, among other duties, investigating federal criminal offenses as they relate to USDOT.
3. The Federal Motor Carrier Safety Administration ("FMCSA") is a division of the USDOT charged with, among other things, prescribing and enforcing safety regulations involving the use commercial motor vehicles (CMVs) in interstate commerce to transport passengers or property. FMCSA is responsible for, among

other things, the regulation of both CMV carriers (hereafter also referred to as "motor carriers") and their drivers (hereafter also referred to as "bus drivers").

DEFENDANTS

4. **GLOBAL LIMO, INC. ("GLOBAL LIMO")**, defendant herein, was a corporation organized under the laws of the State of Texas. Its principal business as a motor carrier was the intrastate and interstate transportation of passengers by CMV. GLOBAL LIMO held USDOT Number 01031282, and was authorized to conduct CMV operations in interstate commerce. Those operations were subject to FMCSA's regulatory authority and oversight.

5. **JAMES H. MAPLES ("MAPLES")**, defendant herein, was the president, registered agent, and principal director of GLOBAL LIMO. MAPLES' duties included the overall operational and financial management of GLOBAL LIMO, including the direct supervision of its employees and independent contractors to ensure that its CMV operations were in compliance with FMCSA's rules and regulations. Additional duties included scheduling and dispatching the company's bus drivers on scheduled and additional trips, and monitoring their locations as well as the hours they legally had available to drive to be in compliance with FMCSA regulations, on a frequent, if not daily basis. In relation to GLOBAL LIMO, the defendant was a principal.

6. MAPLES had operated a passenger-carrying CMV business under various corporate names since 1987, and incorporated GLOBAL LIMO on July 17, 2002. GLOBAL LIMO and MAPLES operated and maintained a fleet of at least five (5) CMVs (the "Global Limo Busses") until on or about October 7, 2005, when FMCSA ordered the defendants to immediately cease all CMV operations in the wake of a bus fire aboard Global Limo Bus No. 717, that killed twenty-three passengers. The passengers were residents of Brighton Gardens, an assisted living community in Bellaire, Texas, in the Southern District of Texas, and were in the process of evacuating from Hurricane Rita at the time of the September 23, 2005 bus fire.

7. In ordering GLOBAL LIMO and MAPLES to discontinue all CMV operations, FMCSA cited "a continuing and flagrant disregard for compliance with Federal Motor Carrier Safety Regulations and a management philosophy indifferent to motor carrier safety." FMCSA further identified "a total and complete breakdown of management controls and oversight to ensure safe operation" of Global Limo Busses, and concluded that the CMV operations of MAPLES and GLOBAL LIMO had "reached the point where they constituted an imminent hazard to the public."

THE REGULATION OF MOTOR CARRIERS AND BUS DRIVERS

8. FMCSA administers and enforces the Motor Carrier Safety Act of 1984, including the regulations under that Act. That Act and its regulations are written to

ensure, among other things, that motor carriers and their drivers fully comply with the responsibilities imposed on them to operate their vehicles in a safe manner.

9. Under the authority of various statutes, including but not limited to Title 49, United States Code, Sections 31136, 31142, and 31502, the Secretary of the USDOT has promulgated numerous regulations relating to record keeping, safe operation of motor carriers and qualification of drivers. These regulations include both mandatory record-keeping requirements and mandatory operational requirements. Among those regulations are requirements that motor carriers keep records relating to equipment safety, drivers' qualifications, drivers' on-the-road activities, as well as licensing, record keeping and maintenance standards. FMCSA has authority to review these records required to be kept by motor carriers, in order to determine whether drivers employed by the motor carrier are qualified to operate safely, and are in fact operating safely. FMCSA conducts on-site inspections of motor carriers both with and without notice.

DRIVER'S DAILY LOGS

10. FMCSA's regulation of bus drivers includes limitations on the maximum number of daily allowable driving hours and required hours off duty, in order to protect the public from CMV-related accidents caused by tired and fatigued bus drivers operating on the nation's highways.

11. Under Title 49, Code of Federal Regulations, Section 395.8, bus drivers are required to keep accurate records of their "duty status," commonly referred to as Driver's Daily Logs ("Daily Logs"), listing a wide variety of information, including their duty status, the location and time of each change of duty status, total miles driven each day, bus number, name of carrier, 24-hour starting time, main office address, name of co-driver, and total hours. Bus drivers are required to sign the logs, thereby certifying that all entries are true and correct.

12. Under Title 49, Code of Federal Regulations, Section 395.8(b), the four types of driver "duty status" reported in a Daily Log are "off duty," "sleeper berth," "driving," and "on-duty not driving." Pursuant to Title 49, Code of Federal Regulations, Section 395.2, a driver is "on-duty" from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. As expressly provided by Title 49, Code of Federal Regulations, Section 395.2, "on duty time" includes all time, other than driving time, in or upon any CMV except time spent resting in a "sleeper berth." A sleeper berth, for purposes of a bus driver's duty status, must conform to specifications set forth in Title 49, Code of Federal Regulations, Section 393.76. None of the Global Limo Busses at issue in this Indictment were equipped with sleeper berths.

13. Under Title 49, Code of Federal Regulations, Section 395.8(a), motor

carriers are required to ensure that their drivers keep the Daily Logs described herein. Motor carriers are also required under Title 49, Code of Federal Regulations, Section 395.8(k) to collect and retain those daily logs along with all supporting documents, such as toll tickets, trip reports, payroll records, fuel receipts, dispatch records, and any other records directly related to the motor carrier's operations, for a period of at least six months from date of receipt. Section 395.8(k) also requires that the motor carrier maintain those records at their principal place of business.

14. Under Title 49, Code of Federal Regulations, Section 395.8(e), failure to complete the record of duty activities of Section 395.8, failure to preserve a record of such duty activities or the making of false reports in connection with such duty activities shall make the driver and/or the carrier liable to prosecution.

15. Under Title 49, Code of Federal Regulations, Section 395.8(i), bus drivers are required to submit or forward by mail the original Daily Logs to the regular employing motor carrier within thirteen (13) days following the completion of the form.

16. Title 49, Code of Federal Regulations, Section 395.5 provides three major rules governing how long a driver could drive a bus. The rules are based on the four different types of driver duty status explained above. The "10-hour" rule provides that, once a driver accumulates ten (10) hours of driving time, a motor carrier could not

permit or require the driver to drive again until the driver had eight (8) consecutive hours "off duty." The "15-hour" rule provides that, once a driver accumulates fifteen (15) hours of "on duty" time (which includes both "driving" and "on-duty not driving" time), a motor carrier could not permit or require the driver to drive again until the driver accumulates eight (8) consecutive hours "off duty." The "70-hour" rule prohibits a motor carrier from permitting or requiring a driver to drive if the driver accumulates more than seventy (70) hours "on duty" (which includes both "driving" and "on-duty not driving") in any given consecutive 8-day period.

17. The primary means by which FMCSA and state law enforcement authorities enforce federal motor carrier safety regulations relating to the limits on a bus driver's hours of service is to inspect a driver's Daily Logs to determine the number of driving hours, on-duty hours and off duty hours and compare those logs with the supporting documents maintained by the motor carrier.

DRIVER VEHICLE INSPECTION REPORTS

18. FMCSA's regulation of bus drivers requires all motor carriers to systematically inspect, repair, and maintain all CMVs subject to a carrier's control, in order to protect the public from CMV-related accidents caused by unsafe CMVs operating on the nation's highways.

19. Under Title 49, Code of Federal Regulations, Section 396.3, motor

carriers are required systematically to inspect, repair and maintain all CMVs subject to their control, such that the motor vehicle's parts and accessories are in safe and proper operating condition at all times. Under Title 49, Code of Federal Regulations, Section 396.3(a)(1), these parts and accessories include, but are not limited to, frame and frame assemblies, suspension systems, axles and attaching parts, wheels and rims, and steering systems.

20. Under Title 49, Code of Federal Regulations, Section 396.3(b), motor carriers are required to maintain a record of such inspection, repairs and maintenance, including the date and nature of the activity.

21. Under Title 49, Code of Federal Regulations, Section 396.3(c), motor carriers are required to retain such records where the CMV is housed or maintained for a period of one (1) year and for six (6) months after the motor vehicle leaves the motor carrier's control.

22. Under Title 49, Code of Federal Regulations, Section 396.11(a), motor carriers must require their drivers to prepare a daily Driver Vehicle Inspection Report (the "Inspection Report") on each CMV operated. The Inspection Report must be in writing and prepared at the completion of each day's work, must include at least the following parts and accessories: service brakes, parking (hand) brake, steering mechanism, lighting devices and reflectors, tires, horn, windshield wipers, rear vision

mirrors, coupling devices, wheels and rims, and emergency equipment.

23. Under Title 49, Code of Federal Regulations, Section 396.11(b), the Inspection Report must identify the CMV and list any defect or deficiency discovered by or reported to the driver which would affect the safety of the operation of the vehicle or result in its mechanical breakdown. Drivers are required to sign the reports. Their signature certifies that all entries are true and correct.

24. Under Title 49, Code of Federal Regulations, Section 396.11(c), every motor carrier shall collect and retain the Inspection Reports for a period of at least three months from the date the Reports are prepared.

25. The Inspection Reports are the primary means by which FMCSA Inspectors as well as state law enforcement authorities enforce federal motor carrier safety regulations relating to the safety of the bus. The Inspection Reports indicate the existence of any defects or deficiencies and whether the carrier repaired them.

COUNT ONE

Conspiracy to Make False Statements to a Government Agency

18 U.S.C. § 371

1. The Grand Jury adopts, realleges and incorporates herein paragraphs 1 through 25 of the Introduction Section of this Indictment.

THE CONSPIRACY

2. Beginning at a time unknown but no later than on or about May 5, 2005,

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and continuing to at least on or about July 18, 2005, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

GLOBAL LIMO, INC.
and
JAMES H. MAPLES,

defendants herein, did knowingly agree, combine, and conspire with each other and others known and unknown to the Grand Jury, in a matter within the jurisdiction of the executive branch of the United States government, namely FMCSA and USDOT, an agency and department of the United States of America, to knowingly and willfully falsify, conceal, and cover up by trick, scheme and device, certain material facts, that is the preparation, maintenance and retention for inspection by FMCSA, of various entries contained in Daily Logs of CMV drivers employed by GLOBAL LIMO and MAPLES which the defendants knew to be false and fictitious, in violation of Title 18, United States Code, Section 1001.

MANNER AND MEANS OF THE CONSPIRACY

3. The above-named defendants implemented the conspiracy through the following manner and means:

4. It was part of the conspiracy that defendant GLOBAL LIMO, along with its principal MAPLES, would and did provide transportation of passengers over long distances by assigning two drivers to one bus with no sleeper berth. The Global Limo

drivers alternated driving over long periods of time, with neither driving more than ten hours consecutively. When not driving, the co-driver traveled in one of the bus' passenger seats.

5. It was a further part of the conspiracy that defendant GLOBAL LIMO and MAPLES, along with its employees and bus drivers, knowingly and willfully falsified and aided and abetted in the falsification of Daily Logs, by causing, directing, and encouraging GLOBAL LIMO drivers to falsely classify themselves as "off duty" when traveling as a co-driver in a passenger seat, instead of the appropriate "on-duty not driving" classification. This false classification enabled GLOBAL LIMO drivers to improperly accumulate eight (8) consecutive hours "off duty," thereby circumventing the "ten-hour" and "fifteen-hour" rules. The defendants undertook said actions to permit GLOBAL LIMO drivers to drive for longer periods of time than the law permits, thereby increasing the financial earnings of GLOBAL LIMO and MAPLES through increased transportation of passengers. Those actions resulted in GLOBAL LIMO bus drivers driving in a tired and fatigued condition, at risk of causing accidents on the nation's highways and elsewhere.

6. It was a further part of the conspiracy that GLOBAL LIMO and MAPLES would and did obtain false and fraudulent Daily Logs from GLOBAL LIMO drivers and maintain them in GLOBAL LIMO records for, among other things, FMCSA

inspection.

7. It was a further part of the conspiracy that defendants GLOBAL LIMO and MAPLES would and did disregard federal highway safety regulations by allowing, encouraging and causing GLOBAL LIMO bus drivers to:

- A. Operate Global Limo Busses in violation of FMCSA's safety regulations;
- B. Exceed the limitations on the maximum allowable number of driving and "on duty" hours; and
- C. Prepare and maintain false and fraudulent Daily Logs to conceal violations of FMCSA's regulations governing the daily maximum allowable number of driving and "on duty" hours.

OVERT ACTS

8. In furtherance of the conspiracy and to achieve the objects thereof, the defendants and their co-conspirators, known and unknown to the Grand Jury, committed and caused to be committed the following overt acts, among others, in the Southern District of Texas and elsewhere:

1.a. On or about May 5, 2005, MAPLES caused and directed two Global Limo Bus Drivers (Driver A and Driver B) to drive Global Limo Bus No. 710, with no sleeper berth, from San Antonio, Texas, departing at or about 2:30 a.m. on

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May 6, 2005, to Grinnell, Iowa, arriving at or about 3:00 p.m. on May 7, 2005.

1.b. On or about May 6, 2005, Driver A falsely stated in a Daily Log that he was "off duty" between 6:30 a.m. and 3:30 p.m., when in fact he was traveling from Waco, Texas, to Conway, Arkansas, in a passenger seat on his assigned bus without a sleeper berth and thus "on duty, not driving."

1.c. On or about May 14, 2005, MAPLES and GLOBAL LIMO obtained Driver A's May 6, 2005 Daily Log and maintained it in GLOBAL LIMO records for, among other things, FMCSA inspection.

1.d. On or about May 6, 2005, Driver B falsely stated in his Daily Log that he was "off duty" between 7:30 p.m. and midnight, when in fact he was traveling from Conway, Arkansas, to Joplin, Missouri, in a passenger seat on his assigned bus without a sleeper berth and thus "on duty, not driving."

1.e. On or about May 14, 2005, MAPLES and GLOBAL LIMO obtained Driver B's May 6, 2005 Daily Log and maintained it in GLOBAL LIMO records for, among other things, FMCSA inspection.

2.a. On or about May 13, 2005, MAPLES caused and directed two Global Limo Bus Drivers (Driver C and Driver D) to drive Global Limo Bus No. 712 from Quartsite, Arizona, departing at or about 4:00 a.m. on May 13, 2005, to Donna, Texas, arriving at or about 1:30 p.m. on May 14, 2005.

2.b. On or about May 13, 2005, Driver C falsely stated in his Daily Log that he was "off duty" between 2:30 p.m. and 10:00 p.m., when in fact he was traveling from Tucson, Arizona, to Las Cruces, New Mexico, in a passenger seat on his assigned bus with no sleeper berth and thus "on duty, not driving."

2.c. On or about May 14, 2005, MAPLES and GLOBAL LIMO obtained Driver C's May 13, 2005 Daily Log and maintained it in GLOBAL LIMO records for, among other things, FMCSA inspection.

2.d. On or about May 14, 2005, Driver C falsely stated in his Daily Log that he was "off duty" between 4:30 a.m. and 10:45 a.m., when in fact he was traveling from Las Cruces, New Mexico, to George West, Texas, in a passenger seat on his assigned bus with no sleeper berth and thus "on duty, not driving."

2.e. On or about May 14, 2005, MAPLES and GLOBAL LIMO obtained Driver C's May 14, 2005 Daily Log and maintained it in GLOBAL LIMO records for, among other things, FMCSA inspection.

2.f. On or about May 13, 2005, Driver D falsely stated in his Daily Log that he was "off duty" between 4:00 a.m. and 8:30 a.m., and between 10:00 p.m. and midnight, when in fact he was traveling from Quartzsite, Arizona, to Donna, Texas, in a passenger seat on his assigned bus with no sleeper berth and thus "on duty, not driving."

2.g. On or about May 14, 2005, MAPLES and GLOBAL LIMO obtained Driver D's May 13, 2005 Daily Log and maintained it in GLOBAL LIMO records for, among other things, FMCSA inspection.

3.a. On or about May 31, 2005, MAPLES caused and directed two Global Limo Bus Drivers (Driver D and Driver E) to drive Global Limo Bus No. 712 from Edinburg, Texas, departing at or about 12:30 a.m. on June 1, 2005, to Anaheim California, arriving at or about 10:00 a.m. on June 2, 2005.

3.b. On or about June 1, 2005, Driver D falsely stated in his Daily Log that he was "off duty" between 5:30 a.m. and 12:30 p.m., when in fact he was traveling from San Antonio, Texas, to Tucson, Arizona, in a passenger seat on his assigned bus with no sleeper berth and thus "on duty, not driving."

3.c. On or about June 8, 2005, MAPLES and GLOBAL LIMO obtained Driver D's June 1, 2005 Daily Log and maintained it in GLOBAL LIMO records for, among other things, FMCSA inspection.

3.d. On or about June 1, 2005, Driver E falsely stated in her Daily Log that she was "off duty" between 12:30 a.m. and 5:30 a.m., when in fact she was traveling from Edinburg, Texas, to Anaheim, California, in a passenger seat on her assigned bus with no sleeper berth and thus "on duty, not driving."

3.e. On or about June 8, 2005, MAPLES and GLOBAL LIMO obtained

Driver E's June 1, 2005 Daily Log and maintained it in GLOBAL LIMO records for, among other things, FMCSA inspection.

4.a. On or about July 8, 2005, MAPLES caused and directed two Global Limo Bus Drivers (Driver A and Driver B) to drive Global Limo Bus No. 712 from Pharr, Texas, departing at or about 4:30 a.m. on July 8, 2005, to Tampa, Florida, arriving at or about 8:00 a.m. on July 9, 2005.

4.b. On or about July 8, 2005, Driver A falsely stated in his Daily Log that he was "off duty" between 12:30 p.m. and 5:00 p.m. and between 5:30 p.m. and 8:00 p.m., when in fact he was traveling from Baytown, Texas, to Gulfport, Mississippi, in a passenger seat on his assigned bus with no sleeper berth and thus "on duty, not driving."

4.c. On or about July 18, 2005, MAPLES and GLOBAL LIMO obtained Driver A's July 8, 2005 Daily Log and maintained it in GLOBAL LIMO records for, among other things, FMCSA inspection.

4.d. On or about July 8, 2005, Driver B falsely stated in his Daily Log that he was "off duty" between 4:30 a.m. and 11:30 a.m. and between 9:00 p.m. and 10:30 p.m., when in fact he was traveling from Pharr, Texas, to St. Petersburg, Florida, in a passenger seat on his assigned bus with no sleeper berth and thus "on duty, not driving."

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4.e. On or about July 18, 2005, MAPLES and GLOBAL LIMO obtained Driver B's July 8, 2005 Daily Log and maintained it in GLOBAL LIMO records for, among other things, FMCSA inspection.

All in violation of Title 18, United States Code, Section 371.

COUNTS TWO - THREE
Violation of FMCSA Regulations - 49 U.S.C. § 521(b)(6) and 18 U.S.C. § 2

1. The Grand Jury adopts, realleges and incorporates herein paragraphs 1 through 25 of the Introduction Section of this Indictment.
2. On or about the dates listed below, in the Southern District of Texas and elsewhere within the jurisdiction of the Court,

GLOBAL LIMO, INC.
and
JAMES H. MAPLES,

defendants herein, each aided and abetted by the other and by others known and unknown to the Grand Jury, did knowingly and willfully violate regulations issued by the Secretary of Transportation under Title 49, United States Code, Sections 31133(a) and 31136(a), as more fully set forth below:

COUNT	DATE	VIOLATION
2	From as early as May 6, 2005, and continuing to at least August 24, 2005	GLOBAL LIMO and MAPLES knowingly and willfully failed to inspect and maintain Global Limo Buses to ensure safe and proper operating condition at all times, in violation of 49 C.F.R. § 396.3(a)(1).
3	From no later than May 6, 2005, and continuing to at least August 24, 2005	GLOBAL LIMO and MAPLES knowingly and willfully failed to require GLOBAL LIMO bus drivers to complete driver vehicle inspection reports at the end of the work day, in violation of 49 C.F.R. § 396.11(a).

All in violation of Title 49, United States Code, Section 521(b)(6), and Title 18, United States Code, Section 2.

A TRUE BILL:


FOREPERSON OF THE GRAND JURY

CHUCK ROSENBERG
United States Attorney


JOHN B. KINCHEN
Assistant United States Attorney